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16 UNITED STATES DISTRICT COURT  
17  
18 CENTRAL DISTRICT OF CALIFORNIA  
19  
20 WESTERN DIVISION

21 *IN RE: Avon Anti-Aging Skincare Creams*  
22 *and Products Marketing and Sales*  
23 *Practices Litigation*

Case No.: 2:12-cv-09084-GW-JC  
**CONSOLIDATED CLASS ACTION**

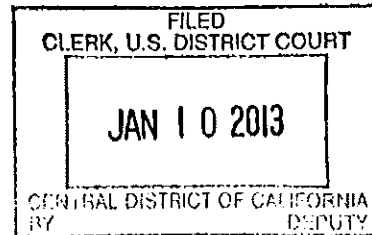
**CONSOLIDATED COMPLAINT**  
**Jury Trial Demanded**

District Judge: Hon. George H Wu

Magistrate Judge: Hon. Jacqueline  
Chooljian

Case Filed: Oct. 23, 2012

Trial Date: None Set



1 Plaintiffs LORENA TRUJILLO and MONIQUE QUINTANA ("Plaintiffs"),  
2 individually and on behalf of all other members of the public similarly situated, allege as  
3 follows:

4 **NATURE OF THE ACTION**

5 1. This action is brought on behalf of Plaintiffs and a class of consumers who  
6 purchased Avon's ANEW Clinical Advanced Wrinkle Corrector, ANEW Reversalist Night  
7 Renewal Cream, ANEW Reversalist Renewal Serum, and ANEW Clinical Therafirm Face  
8 Lifting Cream (the "Avon Anti-Aging Products"). Plaintiffs' claims concern the  
9 deceptive and misleading practices conducted by Defendant Avon Products, Inc.  
10 ("Defendant" or "Avon") in connection with marketing of the Avon Anti-Aging Products,  
11 in violation of California and New York state law, and the common law.

12 2. Plaintiffs bring this action on behalf of themselves and other similarly  
13 situated consumers nationwide and in the State of California to prevent Avon from  
14 continuing to mislead consumers, and to obtain redress for those who have purchased  
15 Defendant's Avon Anti-Aging Products.

16 3. As more fully alleged herein, Defendant's schemes or artifices to deceive  
17 Plaintiffs and other members of the proposed Classes has consisted of systemic and  
18 continuing practices of disseminating false and misleading information via television  
19 commercials, Internet websites and postings, blast emails, radio media, blogs, video news  
20 releases, advertisements, and the packaging of the Avon Anti-Aging Products, all of  
21 which is intended to induce unsuspecting consumers, including Plaintiffs and other  
22 members of the proposed Classes, to purchase millions of dollars of the Avon Anti-Aging  
23 Products, which are manufactured, distributed marketed, advertised or sold by Defendant.

24 4. Avon used aggressive marketing to mislead consumers into believing that the  
25 Avon Anti-Aging Products were bottled at the fountain of youth. Indeed, Avon preys  
26 upon consumers who fear the effects of aging and believe there are products that can  
27 make their skin and features youthful again, and halt or turn back the inevitable hands of  
28 time.

## **JURISDICTION AND VENUE**

5. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1332(d)(2). The matter in controversy, exclusive of interest and costs, exceeds the sum or value of \$5,000,000 and is a class action in which members of the class of plaintiffs are citizens of states different from Defendant. Further, greater than two-thirds of members of the Class reside in states other than the states in which Defendant is a citizen. In addition, under 28 U.S.C. § 1367, this Court may exercise supplemental jurisdiction over the state law claims because all of the claims are derived from a common nucleus of operative facts and are such that plaintiffs ordinarily would expect to try them in one judicial proceeding.

6. Venue lies within this judicial district under 28 U.S.C. § 1391(b)(1) and (c)(2) because Defendant's contacts are sufficient to subject it to personal jurisdiction in this District, and therefore, Defendant resides in this District for purposes of venue.

7. Additionally, venue lies within this judicial district under 28 U.S.C. § 1391(b)(2) because certain acts giving rise to the claims at issue in this Complaint occurred, among other places, in this District.

## **PARTIES**

8. Plaintiff Lorena Trujillo is an individual and a citizen of California.

9. Plaintiff Monique Quintana is an individual and a citizen of California.

10. Defendant Avon Products, Inc., a citizen of New York, is a corporation organized and existing under the laws of the State of New York with its principal place of business located at 777 Third Avenue, New York, New York 10017.

11. Defendant Avon Products, Inc. is authorized to do and, in fact, is doing business in the State of California, because, among other things, its products are offered for sale via the Internet, accessible to consumers in California.

12. Whenever, in this Complaint, reference is made to any act, deed, or conduct of Defendant, the allegation means that Defendant engaged in the act, deed, or conduct by or through one or more of its officers, directors, agents, employees or representatives who was actively engaged in the management, direction, control or transaction of the ordinary

1 business and affairs of Defendant.

2 **FACTUAL BACKGROUND**

3 13. Avon proclaims itself to be the world's leading direct seller of cosmetic  
4 products. Since 1886, Avon and its predecessor have been engaged, under the  
5 internationally renowned name and mark AVON, in the sale of cosmetics, fragrances,  
6 toiletries, and related beauty and wellness products and, for many years, have, among  
7 other things, been engaged in distributorship and direct sales services, door-to-door retail  
8 merchandising, telephone shop at home services, mail order catalog sales, and interactive  
9 internet sales, all in the fields of beauty care, salon and spa services, personal care  
10 products, toiletries, cosmetics, housewares, clothing, jewelry, gift items, collectibles, toys,  
11 pre-recorded videos, audio tapes, and compact discs throughout the United States and the  
12 rest of the world.

13 14. Currently, there are approximately 76 million baby boomers in the United  
14 States. By 2030, the United States government projects that one in five people will be  
15 sixty-five or older. One of the defining features of the baby boomer population is its  
16 desire to remain youthful. As a result, anti-aging and health related products and services  
17 are flooding the market. A consumer base striving to keep signs of aging at bay will push  
18 the U.S. market for anti-aging from approximately \$80 billion dollars today to more than  
19 \$114 billion by 2015.

20 15. Avon has aggressively sought to capitalize on this growing market. To stay  
21 ahead of the competition Avon has engaged in a widespread and pervasive scheme to  
22 deceive consumers about the efficacy of the Avon Anti-Aging Products. Avon knows that  
23 consumers are willing to pay a premium for anti-aging products, and as a result, it  
24 advertises the Avon Anti-Aging Products with the intention that consumers rely on the  
25 affirmative misrepresentations on their labeling. Avon also knows that reasonable  
26 consumers, including Plaintiffs, do not have the specialized knowledge necessary to  
27 identify the deceptive nature of Defendant's claims.

28 16. Defendant's Avon Anti-Aging Products are exclusively available through

1 limited authorized channels, namely, Avon's Independent Sales Representatives, who use  
2 catalogs, brochures, and other promotional material, and Avon's website, www.avon.com.  
3 to offer for sale and sell Avon Anti-Aging Products. The Avon Anti-Aging Products are  
4 not sold in beauty parlors, salons, drug stores, department stores or other retail outlets, or  
5 via the web, other than exclusively through Avon's website.

6 17. The Avon Anti-Aging Products line is anchored by its ANEW-branded  
7 products. Defendant's ANEW products are sub-branded into several categories, including  
8 "ANEW Reversalist," "ANEW Ultimate," and "ANEW Clinical," among others. Avon has  
9 earned handsome profits by misleading the public with claims for these products such as:

10 "How does Reversalist work? **Activinol Technology** helps reactivate skin's  
11 repair process to recreate fresh skin and help dramatically reduce the look of  
12 wrinkles and discolorations."

13 "Ultimate's *Pro-Sirtuin TX Technology* is formulated to Stimulate Sirtuin  
14 Youth Proteins and help increase the production of healthier youth cells  
15 [and] Activate Remodeling Proteins to help restore the youthful architecture  
16 of skin."

17 "ANEW Clinical features breakthrough targeted treatments that offer at-  
18 home answers to the costly, time consuming and often painful procedures  
19 found in a dermatologist's office. These cutting edge products deliver quick,  
20 age transforming results at home and return skin to a more youthful state  
21 without a doctor's appointment."

22 18. Such incredible statements are made across the Avon Anti-Aging Products  
23 line. Defendant asserts that its claims of superiority over lesser-priced wrinkle creams are  
24 based on, for example, breakthroughs in science and purported breakthrough scientific  
25 discoveries of unique formulas that penetrate deeply into skin and turn back the hands of  
26 time, by, among other things, "boosting collagen production," "recreat[ing] fresh skin,"  
27 and "fortify[ing] damaged tissue."

28 19. Avon claims that it has proven these "unprecedented discover[ies]" with such  
things as "in-vitro tests on 3D reconstructed skin," "exhaustive research, testing &  
review" and "clinical" studies. Avon knew or should have known that its representations  
about skin creams and serums being able to boost collagen production, as one example,



1 were false, and Avon purposely misrepresented and failed to disclose such falsities to  
2 consumers.

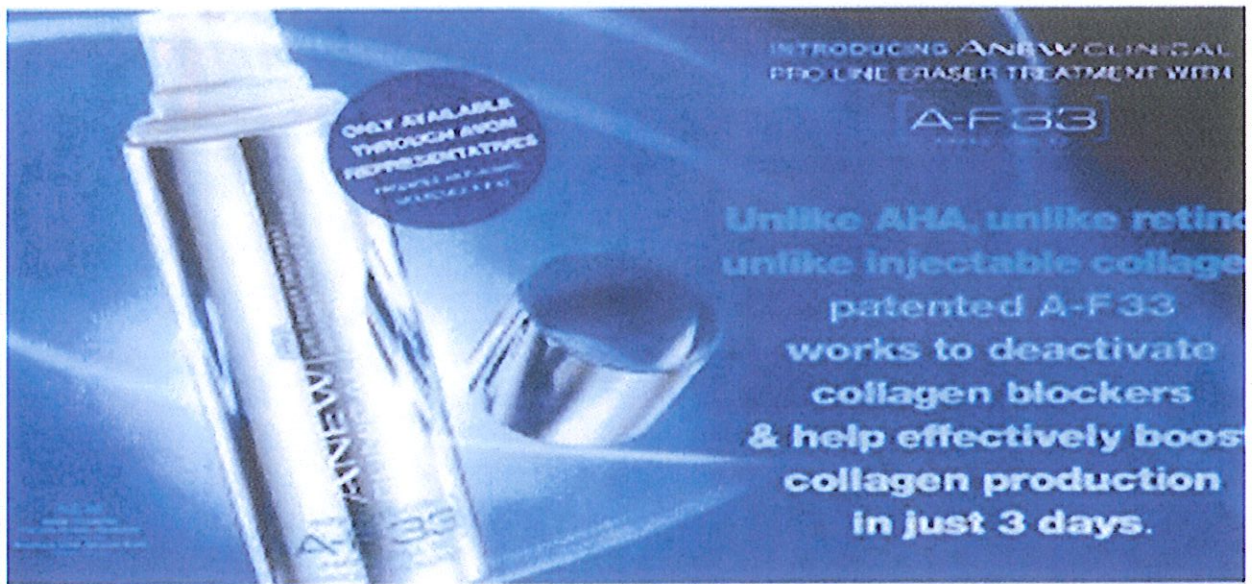
3 20. Avon's marketing, such as the advertisements pictured below, highlight the  
4 purported impact that the Avon Anti-Aging Products have on the genes or composition of  
5 consumers' skin.

6 21. Avon has spent millions of dollars on a pervasive, deceptive and misleading  
7 advertising campaign regarding the efficacy of the Avon Anti-Aging Products. In fact,  
8 Avon has even touted the inclusion of special molecule, the "A-F33 Molecule," in the  
9 Avon Anti-Aging Products to give the impression that they will medically benefit  
10 consumers who use them.

11 22. Exemplars of Avon advertisements touting the "A-F33 Molecule" are as  
12 follows:







**Avon's Representations Concerning**  
**ANEW CLINICAL Advanced Wrinkle Corrector**

23. The webpage for ANEW CLINICAL Advanced Wrinkle Corrector expressly promises as follows:

The at-home answer to wrinkle-filling injections. Start rebuilding collagen in just 48 hours°. Results not comparable to professional procedures.

Skin's 4 structural components weaken and decrease, causing new lines to form and wrinkles to deepen.

**CLINICAL Advanced Wrinkle Corrector** is designed to help reduce the look of wrinkles.

**4D WRINKLE-REVERSE TECHNOLOGY IS DESIGNED TO:**

**Rebuild collagen** to help plump out lines and wrinkles.

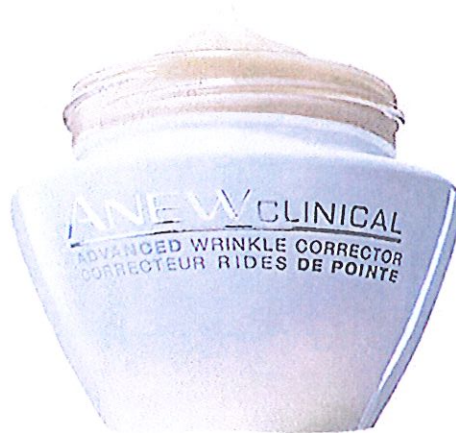
**Stimulate elastin** to help improve elasticity and resilience.

**Regenerate hydroproteins** to help visibly minimize creasing.

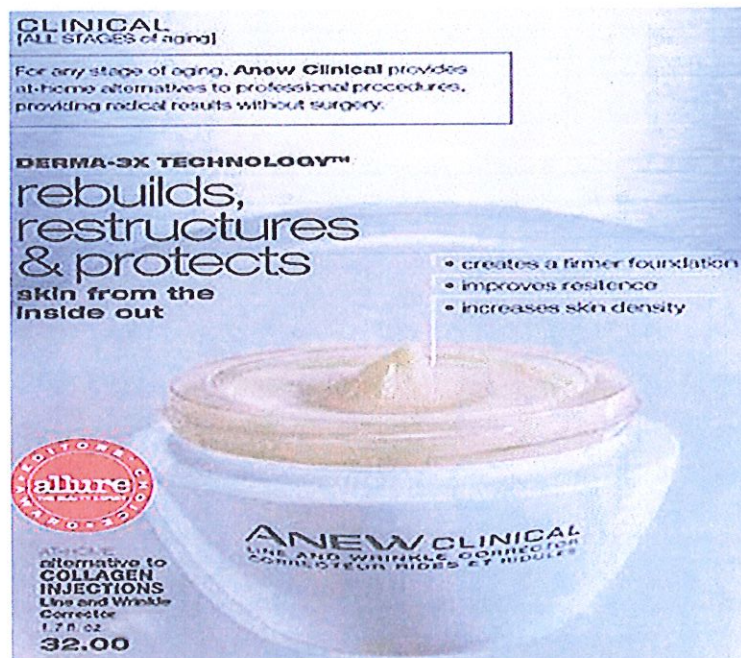
**Formulated to boost shock-absorbing proteins** to help strengthen skin's support layers.

1 Improve fine & deep wrinkles up to 50%\*. Immediately plumps  
 2 out wrinkles and fine lines.\*\* Within 48 hours begins boosting  
 collagen production.° 1.7 fl. oz.

3 24. The packaging for ANEW CLINICAL Advanced Wrinkle Corrector appears  
 4 as follows:  
 5



14 25. Avon's other marketing materials depict ANEW CLINICAL Advanced  
 15 Wrinkle Corrector as follows:  
 16





26. Avon's messages concerning ANEW CLINICAL Advanced Wrinkle Corrector are false and misleading, and reasonably likely to, and do in fact, deceive the consuming public.

**Avon's Representations Concerning  
ANEW REVERSALIST Night Renewal Cream**

27. The webpage for ANEW REVERSALIST Night Renewal Cream expressly promises as follows:

"Before I used this night cream, people called me 'ma'am.'  
Now they call me 'miss.'" - Jo-Ann, Development

Reactivate skin's repair process to help reverse the look of wrinkles with Activinol Technology, working better together.  
1.7 fl. oz.

Over 80% of people saw their wrinkles dramatically reversed.\*  
In **3 days**, 73% of people said their skin felt and looked reborn.\*\* In **4 weeks**, dramatically reduces the look of wrinkles and discolorations.

\*Among those who expressed an opinion in a consumer-perception study. Results observed over time. \*\*Based on a consumer-perception study.

Remember the younger you? Welcome back...Introducing ANEW REVERSALIST. Reactivate skin's repair process to help reverse the look of wrinkles.

**A key to skin repair - Activin:** wrinkles are a result of micro-injuries to the skin, so AVON studied how skin heals. As part of the repair process, the body produces Activin.

**5 groundbreaking years in development:** exhaustive research, testing & review has resulted in an unprecedented discovery by AVON scientists: how to activate this key repair molecule.

**Reactivate, recreate & reverse:** Designed to boost Activin, ANEW's **Activinol** Technology helps reactivate skin's repair process to recreate fresh skin & help dramatically reverse visible wrinkles.

1           28. The packaging for ANEW REVERSALIST Night Renewal Cream appears as  
2 follows:

3                   Normal Size:



13                   Trial Size:



29. Avon's messages concerning ANEW REVERSALIST Night Renewal Cream are false and misleading, and reasonably likely to, and do in fact, deceive the consuming public.

30.                   Avon's Representations Concerning  
                          ANEW REVERSALIST Renewal Serum

31. The webpage for ANEW REVERSALIST Renewal Serum expressly promises as follows:

Up to a **2-WEEK SUPPLY!** Reactivate skin's repair process to help reverse the look of wrinkles with Activinol Technology, working better together. .5 fl. oz.

Over 80% of people saw their wrinkles dramatically reversed.\* In **3 days**, 73% of people said their skin felt and looked reborn.\*\* In **4 weeks**, dramatically reduces the look of wrinkles and discolorations.

\*Among those who expressed an opinion in a consumer-perception study. Results observed over time. \*\*Based on a consumer-perception study.

Remember the younger you? Welcome back...Introducing ANEW REVERSALIST. Reactivate skin's repair process to help reverse the look of wrinkles.

**A key to skin repair - Activin:** wrinkles are a result of micro-injuries to the skin, so AVON studied how skin heals. As part of the repair process, the body produces Activin.

**5 groundbreaking years in development:** exhaustive research, testing & review has resulted in an unprecedented discovery by AVON scientists: how to activate this key repair molecule.

**Reactivate, recreate & reverse:** Designed to boost Activin, ANEW's **Activinol** Technology helps reactivate skin's repair process to recreate fresh skin & help dramatically reverse visible wrinkles.

31. The packaging for ANEW REVERSALIST Renewal Serum appears as follows:



32. Avon's messages concerning ANEW REVERSALIST Renewal Serum are false and misleading, and reasonably likely to, and do in fact, deceive the consuming public.



33. Additionally, Avon's other marketing materials depict ANEW REVERSALIST Night Renewal Cream and ANEW REVERSALIST Renewal Serum as follows:



**Avon's Representations Concerning**  
**ANEW CLINICAL Therafirm Face Lifting Cream**

34. The webpage for ANEW CLINICAL Therafirm Face Lifting Cream expressly promises as follows:

Our effective lifting treatment is formulated to fortify damaged tissue with new collagen. In just 3 days, see tighter, firmer, more lifted skin.\* Simply apply daily to a clean, dry face AM and/or PM under your moisturizer. 1 fl. oz.  
As seen on TV.

How Triple Sonic Technology works:

1 • Ultrasonic stressed yeast and other natural extracts combined  
2 are designed to help tighten the connections between skin's  
3 layers.

4 • Also formulated with hydrolyzed plant protein and other  
5 natural tightening agents to help form a 3-D matrix on your skin.

6 Together, these potent ingredients fuse to help provide a visible  
7 lifting, tightening and firming effect.

8 \*Based on a consumer-perception study.

9 **RESULTS SHOW:**

10 **After 3 Days\*\***

11 • Skin looks and feels firmer, tighter and more lifted.

12 **After 4 Weeks\*\***

13 • 87% of women felt a more youthful facial definition and shape  
14 was restored.

15 • 77% of women felt their jawline and neck were sculpted.

16 **With Continued Use\*\*\***

17 • 76% of women showed improvement in sagging.

18 • Skin tightness improved a remarkable 51%.

19 • 91% of women showed fewer fine lines.

20 \*\*Based on women who expressed an opinion in a consumer-  
21 perception study. \*\*\*Based on a dermatologist-supervised  
22 clinical study.

1           35. The packaging for ANEW CLINICAL Thermafirm Face Lifting Cream  
2 appears as follows:



15           36. Avon's messages concerning ANEW CLINICAL Thermafirm Face Lifting  
16 Cream are false and misleading, and reasonably likely to, and do in fact, deceive the  
17 consuming public.

18  
19                   **Avon Misleads and Induces Consumers**  
20                   **Using Sham Scientific and Research Claims**

21           37. Upon information and belief, there is no genuine scientific research and there  
22 are no scientifically reliable studies in existence that support Avon's extraordinary claims  
23 concerning the Avon Anti-Aging Products. In fact, on October 5, 2012, the Food & Drug  
24 Administration ("FDA") issued a warning letter (reference number 262337) to Avon that  
25 said, in part:

26                   [Y]our products Anew Clinical Advanced Wrinkle Corrector,  
27                   Anew Reversalist Night Renewal Cream, Anew Reversalist  
28                   Renewal Serum, Anew Clinical Thermafirm Face Lifting  
                    Cream, and Solutions Liquid Bra Toning Gel appear to be  
                    intended for uses that cause these products to be drugs under  
                    section 201(g)(1)(C) of the Federal Food, Drug, and Cosmetic



1 Act (the Act) [21 U.S.C. § 321(g)(1)(C)]. The claims on your  
2 web site indicate that these products are intended to affect the  
3 structure or any function of the human body, rendering them  
4 drugs under the Act. The marketing of these products with  
5 claims evidencing these intended uses violates the Act.

6 ...

7 Your products are not generally recognized among qualified  
8 experts as safe and effective for the above referenced uses and,  
9 therefore, the products are new drugs as defined in section  
10 201(p) of the Act [21 U.S.C. § 321(p)]. Under section 505(a) of  
11 the Act [21 U.S.C. § 355(a)], a new drug may not be legally  
12 marketed in the U.S. without prior approval from FDA in the  
13 form of an approved New Drug Application (NDA).

14 38. Upon information and belief, all Avon Anti-Aging Products are formulated  
15 in substantially the same ways and Defendant utilize the same marketing schemes and  
16 promises for the entire Avon Anti-Aging Products line. Thus, Plaintiffs' claims of  
17 deceptive and misleading advertising/marketing apply to Defendant's entire Avon Anti-  
18 Aging Products line.

19 39. Indeed, all of Avon's claims as to the superior benefits of its Avon Anti-  
20 Aging Products are false, deceptive, and misleading, and such claims have induced and  
21 continue to induce consumers to spend substantial sums of money for the Avon Anti-  
22 Aging Products when they do not and cannot provide or produce the touted superior  
23 benefits.

24 40. Avon's deceptive and misleading conduct has caused consumers to pay a  
25 premium price for Avon's products when there are readily available moisturizers and  
26 creams at substantially lower prices due to Defendant's claims that Avon Anti-Aging  
27 Products provide a unique benefit and results over those lower priced creams and serums.  
28 Thus, Avon has engorged itself with profits based upon its false and deceptive practices to  
the detriment of consumers.

41. Avon spends millions of dollars misleading customers about the efficacy of  
its products by stating that the Avon Anti-Aging Products are superior because of  
breakthrough scientific findings and extensive research and clinical studies. However, as

1 the FDA pointed out in its October 5, 2012 letter, no reliable experts have found that the  
2 Avon Anti-Aging Products are effective for the uses touted by the company. Avon's  
3 claims are a sham. In fact, as the FDA has recognized, if the Avon Anti-Aging Products  
4 could actually do what they claim, Avon would be required to submit a New Drug  
5 Application.

6 42. Avon promises specific superior results over lesser priced products that offer  
7 similar ingredients and efficacy by cloaking the Avon Anti-Aging Products with the  
8 indicia of scientific reliability and making claims of "exhaustive research, testing &  
9 review," which has led to "unprecedented discover[ies] by AVON scientists." Such  
10 deceptive conduct and practices mean that Avon's advertising and marketing is not just  
11 puffery, but is instead deceptive and misleading and therefore, is actionable.

12 43. A significant feature of the Avon Anti-Aging Products marketing is the  
13 promotion of "in-vitro" testing, which gives rise to thoughts of teams of scientists in a  
14 laboratory looking for breakthroughs in science. All "in-vitro" testing simply means,  
15 however, is that the testing was done in a test tube; not testing the efficacy of the products  
16 on people. Avon knows that in-vitro testing does not mean real life use will produce the  
17 promised results and benefits.

18 44. Yet, Avon promises the Avon Anti-Aging Products penetrate deeply into the  
19 skin. One of the sham ways to achieve such a claim is by the in-vitro testing of peptide  
20 ingredients. With in-vitro testing, however, peptide molecules, usually weighing over 500  
21 Daltons, are usually too large to actually penetrate skin. Thus, it is usually impossible for  
22 those ingredients to reach the cells they are supposedly enhancing through product use.  
23 And, where such an ingredient might penetrate the skin, it does not have the same effect  
24 as the immersion of skin cells in a test tube filled with the peptide. Avon is fully aware of  
25 these facts and fails to disclose such facts to consumers when marketing its Avon Anti-  
26 Aging Products.

27 45. Avon claims to rely on "dermatologist-supervised clinical stud[ies]," but fails  
28 to publish any data that would indicate such "studies" are performed in any way that is

1 recognized as reliable or competent in the scientific community. Consumers certainly  
2 have no way to objectively discern if Avon's purported testing and studies are actually  
3 reliable. Upon information and belief, in reality, the tests are done on too few subjects to  
4 be reliable, or the tests are done on selective and hand-picked subjects so that Avon can  
5 achieve the results they want to market through manipulation.

6 46. Avon takes advantage of every marketing avenue the modern age has opened  
7 to them, as well as relying on tried and true traditional methods, in order to ensure that  
8 their false and deceptive marketing message permeates the general consumer  
9 consciousness. Avon uses television advertising, internet marketing, and social media, as  
10 well as celebrity endorsements, "Avon's Independent Sales Representatives," and glossy  
11 print brochures. But, no matter which marketing avenue reaches a consumer, Avon drives  
12 home the same false and deceptive claims of superior and unique results through all of the  
13 advertising mediums.

14 47. Not only is the uniform message deceptive, but in many cases the advertising  
15 mediums allows Avon to achieve another layer of deception. The use of computer  
16 software such as Photoshop and high end digital editing equipment allows Defendant to  
17 present images of flawless skin, when the reality is likely far different. The use of  
18 Photoshop to alter the perception of consumers has been criticized. In fact, the National  
19 Advertising Division of the Council of Better Business Bureaus ("NAD") recently called  
20 for a ban on the Photoshopping of cosmetic ads to achieve unrealistic results. NAD is  
21 reported to have close ties to the Federal Trade Commission, and is an industry watchdog.  
22 NAD recently got Procter & Gamble to agree to bar deceptive Photoshopping in  
23 advertisements for its "CoverGirl" Mascara according to Jim Edwards of the trade paper  
24 *Business Insider*.

25 **Avon's Deceptive Practices Result in Unfair Profits**

26 48. As a result of the foregoing, Defendant's claims regarding Avon Anti-Aging  
27 Products are deceptive and misleading. Had Plaintiffs and other members of the proposed  
28 Classes been aware of the truth about Defendant's Avon Anti-Aging Products, they would



1 not have purchased the Avon Anti-Aging Products, or would not have paid a premium  
2 price for the Avon Anti-Aging Products.

3 49. Indeed, Defendant was in a superior position to know and did know that its  
4 claims and advertisement were deceptive and false and they failed to inform consumers  
5 that its Avon Anti-Aging Products cannot perform as advertised and promised.

6 50. Instead, Defendant allows its deceptive and misleading marketing to  
7 permeate the consumer advertising consciousness and perpetuate Defendant's false claims  
8 and promises.

9 51. Because of such deceptive practices and conduct, Defendant is able to charge  
10 and get a substantial premium for its products over readily available and much lower  
11 priced cosmetic creams and serums that likely share substantially similar ingredients and  
12 provide similar results. Thus, Avon reaps profits on products where consumers are  
13 induced to pay an unwarranted, substantial premium.

14 **PLAINTIFFS' CLAIMS AGAINST AVON**

15 **Lorena Trujillo**

16 52. Plaintiff Trujillo is a resident of Torrance, California, in Los Angeles County,  
17 California.

18 53. Plaintiff Trujillo purchased Avon's ANEW Reversalist Night Renewal Cream  
19 at least six times in the two years.

20 54. In deciding to purchase Avon's ANEW Reversalist Night Renewal Cream,  
21 Plaintiff Trujillo saw and relied on the statements on Avon's website, believing Avon's  
22 claims that "wrinkles are a result of micro-injuries to the skin," that Avon's "exhaustive  
23 research, testing & review has resulted in an unprecedented discovery by AVON  
24 scientists: how to activate this key repair molecule," and that if she used Avon's ANEW  
25 Reversalist Night Renewal Cream, it would "boost Activin, . . . reactivate [her] skin's  
26 repair process to recreate fresh skin & help dramatically reverse visible wrinkles." These  
27 representations were material to Plaintiff Trujillo.

28 55. Plaintiff Trujillo was denied the benefit of the bargain when she decided to

1 purchase Avon's ANEW Reversalist Night Renewal Cream over competitor products,  
2 because she paid for a product that would "reactivate [her] skin's repair process to  
3 recreate fresh skin," but she received a product that did not, and could not, provide the  
4 benefits it promised to provide. Accordingly, Plaintiff Trujillo suffered injury in fact and  
5 lost money as a result of Avon's false and misleading representations.

6 56. Had Avon disclosed to Plaintiff Trujillo and members of the Class that the  
7 truth about the Products, they would have seen and been aware of the disclosure. But for  
8 Avon's misrepresentations, Plaintiff Trujillo and members of the Class would not have  
9 purchased and consumed the Avon Anti-Aging Products. Instead, had they known the  
10 truth, Plaintiff Trujillo and members of the Class would not have purchased the Avon  
11 Anti-Aging Products at all.

12 **Monique Quintana**

13 57. Plaintiff Quintana is a resident of San Ysidro, California, in San Diego  
14 County, California.

15 58. Plaintiff Quintana continuously purchased Avon's ANEW Clinical Advanced  
16 Wrinkle Corrector, ANEW Reversalist Night Renewal Cream, and ANEW Reversalist  
17 Renewal Serum on a regular basis for at least the last two years, and used them daily  
18 during that period.

19 59. Plaintiff Quintana's purchases of Avon's ANEW Clinical Advanced Wrinkle  
20 Corrector, ANEW Reversalist Night Renewal Cream, and ANEW Reversalist Renewal  
21 Serum were made in reliance on Avon's representations and omissions regarding the  
22 products' anti-aging effects. These representations and omissions were material to  
23 Plaintiff Quintana's decision to purchase the products.

24 60. Had Avon's ANEW Clinical Advanced Wrinkle Corrector, ANEW Reversalist  
25 Night Renewal Cream, and ANEW Reversalist Renewal Serum been accurately and  
26 appropriately labeled and marketed, Plaintiff Quintana would not have bought them.

27 61. As a result of Avon's misrepresentations and failure to disclose the true  
28 nature of its ANEW Reversalist Night Renewal Cream, and ANEW Reversalist Renewal

1 Serum products, Avon improperly deprived Plaintiff Quintana of significant funds and  
2 denied her the benefit of the bargain.

3 **CLASS ACTION ALLEGATIONS**

4 62. Plaintiffs bring this action, on behalf of themselves and all others similarly  
5 situated, as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure.  
6 Plaintiffs are informed and believe and on that basis, allege that Defendant has sold  
7 thousands of units of the Avon Anti-Aging Products, if not more, in California and  
8 throughout the United States. Plaintiffs are informed and believe and on that basis, allege  
9 that the representations on the packaging for the Avon Anti-Aging Products has been  
10 uniform throughout the class period.

11 63. The groups of similarly situated individuals Plaintiffs seek to represent are  
12 defined as follows:

13  
14 All residents of the United States of America who purchased  
15 Avon's Anew Clinical Advanced Wrinkle Corrector, Anew  
16 Reversalist Night Renewal Cream, Anew Reversalist Renewal  
17 Serum, and Anew Clinical Thermafirm Face Lifting Cream (the  
18 "Avon Anti-Aging Products") during the period of October 23,  
19 2008, continuing through the date of final disposition of this  
20 action (the "Class").

21 64. Additionally, Plaintiffs seek to represent a sub-class defined as follows:

22 All residents of California who purchased Avon's ANEW  
23 Clinical Advanced Wrinkle Corrector, ANEW Reversalist Night  
24 Renewal Cream, ANEW Reversalist Renewal Serum, and ANEW  
25 Clinical Thermafirm Face Lifting Cream (the "Avon Anti-  
26 Aging Products") during the period of October 23, 2008,  
27 continuing through the date of final disposition of this action  
28 (the "California Statutory Subclass").

65. Plaintiffs reserve the right to amend the Class definitions if discovery and  
further investigation reveal that the Class should be expanded or otherwise modified.

66. Plaintiffs reserve the right to establish sub-classes as appropriate.



1           67. This action is brought and properly may be maintained as a class action  
2 under the provisions of Federal Rules of Civil Procedure 23(a)(1)-(4) and 23(b)(1), (b)(2)  
3 or (b)(3), and satisfies the requirements thereof. As used herein, the term "Class  
4 Members" shall mean and refer to the members of the Class.

5           68. Community of Interest: There is a well-defined community of interest  
6 among members of the Class, and the disposition of the claims of these members of the  
7 Class in a single action will provide substantial benefits to all parties and to the Court.

8           69. Numerosity: While the exact number of members of the Class is unknown to  
9 Plaintiffs at this time and can only be determined by appropriate discovery, membership  
10 in the Class is ascertainable based upon the records maintained by Defendant. At this  
11 time, Plaintiffs are informed and believe that the Class includes thousands of members.  
12 Therefore, the Class is sufficiently numerous that joinder of all members of the Class in a  
13 single action is impracticable under Federal Rule of Civil Procedure Rule 23(a)(1), and  
14 the resolution of their claims through the procedure of a class action will be of benefit to  
15 the parties and the Court.

16           70. Ascertainability: Names and addresses of members of the Class are available  
17 from Defendant's records. Notice can be provided to the members of the Class through  
18 direct mailing, publication, or otherwise using techniques and a form of notice similar to  
19 those customarily used in consumer class actions arising under California state law and  
20 federal law.

21           71. Typicality: Plaintiffs' claims are typical of the claims of the other members  
22 of the Class which they seek to represent under Federal Rule of Civil Procedure 23(a)(3)  
23 because Plaintiffs and each member of the Class have been subjected to the same  
24 deceptive and improper practices and have been damaged in the same manner thereby.

25           72. Adequacy: Plaintiffs will fairly and adequately represent and protect the  
26 interests of the Class as required by Federal Rule of Civil Procedure Rule 23(a)(4).  
27 Plaintiffs are adequate representatives of the Class, because they have no interests which  
28 are adverse to the interests of the members of the Class. Plaintiffs are committed to the

1 vigorous prosecution of this action and, to that end, Plaintiffs have retained counsel who  
2 are competent and experienced in handling class action litigation on behalf of consumers.

3 73. Superiority: A class action is superior to all other available methods of the  
4 fair and efficient adjudication of the claims asserted in this action under Federal Rule of  
5 Civil Procedure 23(b)(3) because:

- 6 (a) The expense and burden of individual litigation make it economically  
7 unfeasible for members of the Class to seek to redress their “negative  
8 value” claims other than through the procedure of a class action.  
9 (b) If separate actions were brought by individual members of the Class,  
10 the resulting duplicity of lawsuits would cause members to seek to  
11 redress their “negative value” claims other than through the procedure  
12 of a class action; and  
13 (c) Absent a class action, Defendant likely would retain the benefits of its  
14 wrongdoing, and there would be a failure of justice.

15 74. Common questions of law and fact exist as to the members of the Class, as  
16 required by Federal Rule of Civil Procedure 23(a)(2), and predominate over any questions  
17 which affect individual members of the Class within the meaning of Federal Rule of Civil  
18 Procedure 23(b)(3).

19 75. The common questions of fact include, but are not limited to, the following:

- 20 (d) Whether Defendant’s practice of misleading consumers who purchase  
21 the Avon Anti-Aging Products violate one or more provisions of the  
22 CLRA;  
23 (e) Whether Defendant engaged in unlawful, unfair, misleading, or  
24 deceptive business acts or practices;  
25 (f) Whether Defendant engaged in unfair and deceptive consumer trade  
26 practices, or other unlawful acts;  
27 (g) Whether Plaintiffs and members of the Class justifiably relied on the  
28 representations Defendant made in connection with its Avon Anti-

1 Aging Products;

2 (h) Whether Defendant's conduct was willful or reckless;

3 (i) Whether Plaintiffs and members of the Class are entitled to an award  
4 of reasonable attorneys' fees, pre-judgment interest, and costs of this  
5 suit; and

6 (j) Whether Defendant engaged in unlawful and unfair business practices  
7 in violation of California Business & Professions Code sections 17200  
8 *et seq.* and 17500 *et seq.*

9 76. In the alternative, this action is certifiable under the provisions of Federal  
10 Rule(s) of Civil Procedure 23(b)(1) and/or 23(b)(2) because:

11 (k) The prosecution of separate actions by individual members of the  
12 Class would create a risk of inconsistent or varying adjudications with  
13 respect to individual members of the Class which would establish  
14 incompatible standards of conduct for Defendant.

15 (l) The prosecution of separate actions by individual members of the  
16 Class would create a risk of adjudications as to them which would, as a  
17 practical matter, be dispositive of the interests of the other members of  
18 the Class not parties to the adjudications, or substantially impair or  
19 impede their ability to protect their interests; and

20 (m) Defendant has acted or refused to act on grounds generally applicable  
21 to the Class, thereby making appropriate final injunctive relief or  
22 corresponding declaratory relief with respect to the Class as a whole  
23 and necessitating that any such relief be extended to members of the  
24 Class on a mandatory, class-wide basis.

25 77. Plaintiffs are not aware of any difficulty which will be encountered in the  
26 management of this litigation which should preclude its maintenance as a class action.



**FIRST CAUSE OF ACTION**

***Brought on Behalf of the California Statutory Subclass***  
**Violation of the California Consumers Legal Remedies Act**  
**(Cal. Civil Code §§ 1750 *et seq.*)**

78. Plaintiffs incorporate by reference in this cause of action each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

79. Plaintiffs brings this cause of action on behalf of themselves and the other members of the California Statutory Subclass.

80. This cause of action is brought under the California Consumers Legal Remedies Act, California Civil Code sections 1750 *et seq.* ("CLRA"). Plaintiffs and the members of the California Statutory Subclass are consumers as defined by California Civil Code section 1761(d). The Avon Anti-Aging Products are goods within the meaning of California Civil Code section 1761(a).

81. Defendant violated and continues to violate the CLRA by engaging in the following practices proscribed by California Civil Code section 1770(a) in transactions with Plaintiffs and the members of the California Statutory Subclass, which were intended to result in, and did result in, the sale of the Avon Anti-Aging Products:

(5) Representing that [the Avon Anti-Aging Products have]... characteristics...[and] uses...which they do not have....

(7) Representing that [the Avon Anti-Aging Products] are of a particular standard...if they are of another.

(9) Advertising goods...with intent not to sell them as advertised.

82. Defendant violated the CLRA by misrepresenting and advertising the Avon Anti-Aging Products, as discussed above. However, Defendant knew, or should have known, that these representations were false and misleading.

83. In order to conceal the fact that its claims of "recreat[ing] fresh skin," "rebuild[ing] collagen," "regenerat[ing] hydroproteins," "boost[ing] shock-absorbing

1 proteins,” “boost[ing] collagen production,” and “fortify[ing] damaged tissue” are untrue,  
2 and to deceptively imply that these false claims actually have scientific support,  
3 Defendant labels the Avon Anti-Aging Products with phrases such as “clinical,”  
4 “focused,” and “target[ing] specific concerns,” and other representations discussed above.

5 84. On October 22, 2012, via certified mail, return receipt requested, under  
6 Section 1782 of the CLRA, Plaintiff Trujillo’s counsel notified Avon in writing of the  
7 particular violations of Section 1770, and demanded that it rectify the problems associated  
8 with the behavior detailed above, which acts and practices are in violation of California  
9 Civil Code section 1770.

10 85. On November 14, 2012, via certified mail, return receipt requested, under  
11 Section 1782 of the CLRA, Plaintiff Quintana’s counsel notified Avon in writing of the  
12 particular violations of Section 1770, and demanded that it rectify the problems associated  
13 with the behavior detailed above, which acts and practices are in violation of California  
14 Civil Code section 1770.

15 86. Avon failed to respond to Plaintiffs’ demands, nor did it give notice to all  
16 affected consumers under Section 1782. Therefore, under Section 1780(a) of the CLRA,  
17 Plaintiffs and members of the California Statutory Class seek actual and punitive  
18 damages.

19 87. Plaintiff Trujillo filed a Declaration of Venue in accordance with Civil Code  
20 section 1780(d).

21 88. Under Section 1782(d) of the CLRA, Plaintiffs seek an order enjoining the  
22 act and practices described above, restitution of property, and any other relief that the  
23 court deems proper.

24 89. Defendant’s conduct is malicious, fraudulent, and wanton, and Defendant  
25 intentionally misleads and withholds material information from consumers in order to  
26 increase the sale of the Avon Anti-Aging Products.

27 90. Defendant’s misrepresentations and omissions were material to Plaintiffs and  
28 members of the California Statutory Subclass. Plaintiffs and members of the California

1 Statutory Subclass would not have purchased and consumed the Avon Anti-Aging  
 2 Products had it not been for Defendant's misrepresentations and concealment of material  
 3 facts. Plaintiffs and members of the California Statutory Subclass were damaged as a  
 4 result of Defendant's material misrepresentations and omissions.

## 5 **SECOND CAUSE OF ACTION**

### 6 ***Brought on Behalf of the California Statutory Subclass*** 7 **Violation of the California Unfair Business Practices Act** 8 **(California Business & Professions Code §§ 17200 *et seq.*)**

9 91. Plaintiffs incorporate by reference in this cause of action each and every  
 10 allegation of the preceding paragraphs, with the same force and effect as though fully set  
 11 forth herein.

12 92. Plaintiffs bring this cause of action on behalf of themselves and the other  
 13 members of the California Statutory Subclass.

14 93. California Business and Professions Code section 17200 prohibits "any  
 15 unlawful, unfair or fraudulent business act or practice." For the reasons described above,  
 16 Defendant has engaged in unlawful, unfair, and/or fraudulent business acts or practices in  
 17 violation of California Business and Professions Code section 17200.

18 94. Defendant's misrepresentations and omissions of material facts, as set forth  
 19 herein, constitute an unlawful practice because they violate California Civil Code sections  
 20 1572, 1573, 1709, 1710, 1711, and 1770, and the common law.

21 95. Defendant's misrepresentations and omissions of material facts, as set forth  
 22 herein, also constitute "unfair" business acts and practices within the meaning of  
 23 California Business and Professions Code sections 17200 *et seq.*, in that Defendant's  
 24 conduct was injurious to consumers, offended public policy, and was unethical and  
 25 unscrupulous. Plaintiffs also assert a violation of public policy by withholding material  
 26 facts from consumers. Defendant's violation of California's consumer protection and  
 27 unfair competition laws in California resulted in harm to consumers.

28 96. There were reasonable alternatives available to Defendant to further



1 Defendant's legitimate business interests, other than the conduct described herein.

2 97. California Business and Professions Code section 17200 also prohibits any  
3 "fraudulent business act or practice."

4 98. Defendant's misrepresentations and concealment of material facts, as set  
5 forth above, were false, misleading, and/or likely to deceive the public within the meaning  
6 of California Business and Professions Code section 17200.

7 99. Defendant's misrepresentations and concealment were made with knowledge  
8 of their effect, and were done to induce Plaintiffs and members of the California Statutory  
9 Subclass to purchase the Avon Anti-Aging Products. Plaintiffs and members of the  
10 California Statutory Subclass saw and justifiably relied on Defendant's misrepresentations  
11 when purchasing the Avon Anti-Aging Products.

12 100. Defendant's conduct caused and continues to cause injury to Plaintiffs and  
13 members of the California Statutory Subclass. Defendant's misrepresentations and  
14 omissions were material to Plaintiffs and members of the California Statutory Subclass.  
15 Plaintiffs and members of the California Statutory Subclass would not have purchased and  
16 used the Avon Anti-Aging Products had it not been for Defendant's misrepresentations  
17 and concealment of material facts. Plaintiffs and members of the California Statutory  
18 Subclass have suffered injury in fact and have lost money as a result of Defendant's  
19 fraudulent conduct.

20 101. Defendant's misrepresentations and omissions alleged herein are objectively  
21 material to the reasonable consumer, and they were material to Plaintiffs. Reliance upon  
22 the misrepresentations and omissions discussed herein may therefore be presumed as a  
23 matter of law. The materiality of such representations and omissions also establishes  
24 causation between Defendant's conduct and Plaintiffs' conduct and the members of the  
25 California Statutory Subclass' injuries.

26 102. Defendant has thus engaged in unlawful, unfair, and fraudulent business acts  
27 entitling Plaintiffs and members of the California Statutory Subclass to judgment and  
28 equitable relief against Defendants, as set forth in the Prayer for Relief.

103. Additionally, under Business and Professions Code section 17203, Plaintiffs and members of the California Statutory Subclass seek an order requiring Defendant to immediately cease such acts of unlawful, unfair, and fraudulent business practices, and requiring Defendant to correct its actions.

### **THIRD CAUSE OF ACTION**

#### ***Brought on Behalf of the California Statutory Subclass*** **Violation of the California False Advertising Law** **(California Business & Professions Code §§ 17500 *et seq.*)**

#### **Based on Violations of California's Sherman Food, Drug, and Cosmetic Act** **(Cal. Health & Safety Code §§ 109875 *et seq.*)**

104. Plaintiffs incorporate by reference in this cause of action each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

105. Plaintiffs bring this cause of action on behalf of themselves and the other members of the California Statutory Subclass.

106. Defendant's misrepresentations and omissions of material facts, as set forth herein, constitute an unlawful practice because they violate California Health & Safety Code sections 109875 *et seq.*

107. Identical federal and California laws regulate cosmetics and drugs. The requirements of the federal Food Drug & Cosmetic Act ("FDCA") were adopted by the California legislature in the Sherman Food Drug & Cosmetic Law, California Health & Safety Code sections 109875 *et seq.* (the "Sherman Law").

108. Identical to the FDCA, under the Sherman Law, products are "drugs" if they are "intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals" or are "intended to affect the structure or any function of the body of man or other animals." Cal. Health & Safety Code § 109925(b) and (c); *see also* 21 U.S.C. § 321(g).

109. In connection with the sale and marketing of the Avon Anti-Aging Products, Avon represents, among other things, that the Avon Anti-Aging Products will "recreate

1 fresh skin,” “rebuild collagen,” “[s]timulate elastin,” “regenerate hydroproteins,” “boost  
 2 shock-absorbing proteins,” “boost collagen production,” “boost Activin,” and “fortify  
 3 damaged tissue.” The Avon Anti-Aging Products are new drugs under the FDCA and the  
 4 Sherman Law, because the Avon Anti-Aging Products are not generally recognized  
 5 among qualified experts as safe and effective for the above referenced uses. Cal. Health  
 6 & Safety Code § 109980(a); *see also* 21 U.S.C. § 321(p).

7 110. Under the Sherman Law and the FDCA, new drugs may not be legally  
 8 marketed in the United States without prior approval from the FDA. *See* Cal. Health &  
 9 Safety Code § 111550; 21 U.S.C. § 355(a). By marketing and selling the Avon Anti-  
 10 Aging Products as described herein, Avon violates the Sherman Law.

#### 11 **FOURTH CAUSE OF ACTION**

#### 12 ***Brought on Behalf of the California Statutory Subclass*** 13 **Violation of the California False Advertising Law** **(California Business & Professions Code §§ 17500 *et seq.*)**

14 111. Plaintiffs incorporate by reference in this cause of action each and every  
 15 allegation of the preceding paragraphs, with the same force and effect as though fully set  
 16 forth herein.

17 112. Plaintiffs bring this cause of action on behalf of themselves and the members  
 18 of the California Statutory Subclass.

19 113. California Business and Professions Code section 17500 prohibits “unfair,  
 20 deceptive, untrue or misleading advertising.”

21 114. Defendant violated California Business and Professions Code section 17500  
 22 by, *inter alia*, (a) misleadingly advertising that the Avon Anti-Aging Products would  
 23 “recreate fresh skin,” “rebuild collagen,” “regenerate hydroproteins,” “boost shock-  
 24 absorbing proteins,” “boost collagen production,” and “fortify damaged tissue”; and (b)  
 25 concealing material information about the true nature of the Avon Anti-Aging Products, in  
 26 that the Avon Anti-Aging Products did not, and could not, provide the benefits Avon  
 27 promised to provide.

28 115. Defendant’s deceptive practices were specifically designed to induce



1 Plaintiffs and members of the California Statutory Subclass to purchase the Avon Anti-  
2 Aging Products over those of its competitors. Defendant's deceptive practices were  
3 carried out on the labels for the Avon Anti-Aging Products in order to induce Plaintiffs  
4 and members of the California Statutory Subclass to purchase the Avon Anti-Aging  
5 Products.

6 116. Plaintiffs and members of the California Statutory Subclass would not have  
7 purchased and consumed the Avon Anti-Aging Products had it not been for Defendant's  
8 misrepresentations and concealment of material facts. Plaintiffs and members of the  
9 California Statutory Subclass were denied the benefit of the bargain when they decided to  
10 purchase the Avon Anti-Aging Products over competitor products, which are less  
11 expensive or do not unlawfully claim to rebuild muscle. Had Plaintiffs and members of  
12 the California Statutory Subclass been aware of Defendant's false and misleading  
13 advertising tactics, they would not have purchased the Avon Anti-Aging Products.

14 117. The content of Avon's representations concerning the Avon Anti-Aging  
15 Products, as alleged herein, were of a nature likely to deceive reasonable consumers.

16 118. Defendant knew, or in the exercise of reasonable care, should have known,  
17 that the representations were untrue or misleading and likely to deceive reasonable  
18 consumers.

19 119. Defendant's misrepresentations and omissions alleged herein are objectively  
20 material to the reasonable consumer, and reliance upon such misrepresentations and  
21 omissions may therefore be presumed as a matter of law. The materiality of such  
22 representations and omissions also establishes causation between Defendant's conduct  
23 and Plaintiffs' conduct and the California Statutory Subclass members' injuries.

24 120. Unless restrained by this Court, Defendant will continue to engage in  
25 misleading advertising, as alleged above, in violation of California Business and  
26 Professions Code section 17500.

27 121. As a result of the foregoing, Plaintiffs and members of the California  
28 Statutory Class have been injured in fact and lost money or property, and they are entitled

1 to restitution and injunctive relief.

2 **FIFTH CAUSE OF ACTION**  
 3 ***Brought on Behalf of the Class***  
 4 **Breach of Express Warranty**

5 122. Plaintiffs incorporate by reference in this cause of action each and every  
 6 allegation of the preceding paragraphs, with the same force and effect as though fully set  
 7 forth herein.

8 123. Plaintiffs bring this cause of action on behalf of themselves and the members  
 9 of the Nationwide Subclass.

10 124. Plaintiffs, and each member of the Class, formed a contract with Defendant  
 11 at the time that Plaintiffs and Class members purchased the Avon Anti-Aging Products.  
 12 The terms of that contract include the promises and affirmations of fact that the Avon  
 13 Anti-Aging Products would help rebuild muscle and strength, made by Defendant on the  
 14 packaging for the Avon Anti-Aging Products, as described above. The packaging for the  
 15 Avon Anti-Aging Products constitutes an express warranty, became part of the basis of  
 16 the bargain, and is a part of a standardized contract between Plaintiffs and Class members  
 17 on the one hand, and Defendant on the other.

18 125. All conditions precedent to Defendant's liability under this contract have  
 19 been performed by Plaintiffs and the Class.

20 126. Despite express warranties that the Avon Anti-Aging Products alone would  
 21 help rebuild muscle and strength, the Avon Anti-Aging Products do not provide such a  
 22 benefit.

23 127. Defendant breached the terms of this contract, including the express  
 24 warranties, with Plaintiffs and the Class by not providing Avon Anti-Aging Products  
 25 which rebuild muscle, as described above.

26 128. As a result of Defendant's breach of express warranty, Plaintiffs and  
 27 members of the Class were harmed in the amount of the purchase price they paid for the  
 28 Avon Anti-Aging Products.

**SIXTH CAUSE OF ACTION**  
***Brought on Behalf of the Class***  
**Negligent Misrepresentation**

129. Plaintiffs incorporate by reference in this cause of action each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

130. Defendant, directly or through its agents and employees, made false representations, concealments, and nondisclosures to Plaintiffs and members of the Class.

131. In making the representations of fact to Plaintiffs and members of the Class described herein, Defendant has failed to fulfill its duties to disclose the material facts set forth above. The direct and proximate cause of said failure to disclose was the negligence and carelessness of Defendant.

132. In making the representations and omissions, and in doing the acts alleged above, Defendant acted without any reasonable grounds for believing the representations were true, and intended by said representations to induce the reliance of Plaintiffs and members of the Class.

133. Plaintiffs and members of the Class relied upon these false representations, concealments and nondisclosures by Defendant when purchasing the Avon Anti-Aging Products at issue herein, which reliance was justified.

134. As a result of Defendant's wrongful conduct, Plaintiffs and members of the Class have suffered and continue to suffer economic losses and other general and specific damages, including but not limited to the amounts paid for Avon Anti-Aging Products, and any interest that would have been accrued on those monies, all in an amount to be determined according to proof at time of trial.

**SEVENTH CAUSE OF ACTION**  
***Brought on Behalf of the Class***  
**Unjust Enrichment**

135. Plaintiffs incorporate by reference in this cause of action each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

136. Plaintiffs bring this cause of action on behalf of themselves and the other members of the Class

137. By its wrongful acts and omissions for the Avon Anti-Aging Products, as discussed above, with false and materially misleading claims, Defendant was unjustly enriched at the expense of Plaintiffs and members of the Nationwide Subclass, who did not receive the goods to which they were entitled – as discussed in detail above – for the payments made to Defendant, and thus, Plaintiffs and members of the Class were unjustly deprived.

138. It would be inequitable and unconscionable for Defendant to retain the profit, benefit and other compensation it obtained from its deceptive, misleading, and unlawful conduct alleged herein.

139. Plaintiffs and members of the Class seek restitution from Defendant, and seek an order of this Court disgorging all profits, benefits, and other compensation obtained by Defendant from its wrongful conduct.

**EIGHTH CAUSE OF ACTION**  
***Brought on Behalf of the Class***  
**Violation of New York Deceptive Trade Practice Act**  
**(N.Y.G.B.L. § 349)**

140. Plaintiffs incorporate by reference in this cause of action each and every allegation of the preceding paragraphs, with the same force and effect as though fully set forth herein.

141. Plaintiffs bring this cause of action on behalf of themselves and the other members of the Class.



1           142. Avon committed deceptive trade practices in connection with the misconduct  
2 alleged herein, including through its act of fraud and misrepresentation. Such acts include  
3 Avon's fraudulent misrepresentations about the Avon Anti-Aging Products.

4           143. Avon's conduct, as described herein, including its fraudulent  
5 misrepresentations concerning the Avon Anti-Aging Products, constitutes a deceptive  
6 trade practice in violation of N.Y.G.B.L. § 349.

7           144. Avon's deceptive acts described herein were directed at consumers such as  
8 Plaintiffs.

9           145. Avon's deceptive acts described herein were misleading in a material way.

10          146. As a proximate result of Avon's deceptive acts, Plaintiffs and the public,  
11 including the Class, have been damaged.

12                                   **PRAYER FOR RELIEF**

13          Plaintiffs, on behalf of themselves and all others similarly situated, request the  
14 Court to enter judgment against Defendant, as follows:

15          1. Certifying the Class, including the California Statutory Subclass, as  
16 requested herein, certifying Plaintiffs as the representatives of the Class, and appointing  
17 Plaintiffs' counsel as counsel for the Class;

18          2. Ordering that Defendant is financially responsible for notifying all members  
19 of the Class of the alleged misrepresentations and omissions discussed herein;

20          3. Awarding Plaintiffs and the members of the Class compensatory damages in  
21 an amount according to proof at trial;

22          4. Awarding restitution and disgorgement of Defendant's revenues and/or  
23 profits to Plaintiffs and members of the Class;

24          5. Awarding declaratory and injunctive relief as permitted by law or equity,  
25 including: enjoining Defendant from continuing the unlawful practices as set forth herein,  
26 and directing Defendant to identify, with Court supervision, victims of its conduct and pay  
27 them restitution and disgorgement of all monies acquired by Defendant by means of any  
28 act or practice declared by this Court to be wrongful;

1           6.     Ordering Defendant to engage in corrective advertising;

2           7.     Awarding interest on the monies wrongfully obtained from the date of  
3 collection through the date of entry to judgment in this action;

4           8.     Awarding attorneys' fees, expenses, and recoverable costs reasonably  
5 incurred in connection with the commencement and prosecution of this action; and  
6 For such other and further relief as the Court deems just and proper.

7  
8 Dated: January 10, 2013

BARON & BUDD, P.C.

9  
10 By: 

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27 and the putative class  
28

**DEMAND FOR JURY TRIAL**

Plaintiffs request trial by jury on all issues so triable.

Respectfully submitted,

Dated: January 10, 2013

BARON & BUDD, P.C.

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